

# United States Patent and Trademark Office

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APPLICATION NO.		FILING DATE		FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/808,545		03/25/2004	-	Kunihiro Ichimura	*	1417-457	4886	
23117	7590	07/06/2005	•			EXAMINER		
NIXON & VANDERHYE, PC						KUGEL, TIMOTHY J		
901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			•	ART UNIT	PAPER NUMBER			
	•				•	1712		
DATE MAIL ED. 07/04/0005						£		

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Responsive to communication(s) filed on  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-17 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-17 are subject to restriction and/or election requirement.	<b>.</b>	$\int$								
Examiner   Immotity J. Kugel   1712    - The MAILING DATE of this communication appears on the cover sheet with the correspondence address −  - Period for Reply		Application No.	Applicant(s)							
Timothy J. Kugel   Timothy J. Kugel   Timothy J. Kugel   Tit2		10/808,545	ICHIMURA ET AL.							
The MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Edetheious for many be arriabile under the provision of 3 °CFR 1.13(ds). In no event, however, may a reply be timely filed  The period for reply specified above is less hash linky (30) days, a reply within the stabulary printing maintain or period with gray and wite legis £(s) (MONTHS from the railing date of this communication.  Fairne to legity within the state extended period for reply with, by stability of the period for reply specified above, the maximum stations protein with gray and wite legis £(s) (MONTHS from the railing date of this communication.  Fairne to legity within the state extended period for reply with the state of the communication.  Fairne to legity within the state extended period for reply with the state of the communication.  Fairne to legity within the state extended period for reply within the state of the communication.  Fairne to legity within the state extended period for reply within the state of the communication.  Fairne to legity within the state extended period for reply secured and the state of the communication.  Fairne to legity within the state extended period for reply secured and the state of the communication.  Fairne to legity within the state extended period for reply and within the state of the communication.  Fairne to legity within the state extended period for reply and within the state of the state of the communication.  The communication is state at the state of the priority documents have been received.  The state of the state of the state of the priori	Office Action Summary	Examiner	Art Unit							
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## **DETAILED ACTION**

1. Claims 1-17 are pending as filed 25 March 2005.

## Election/Restrictions

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, drawn to a transparent color composition, classified in class 252, subclass 586.
- II. Claim 17, drawn to a color filter, classified in class 353, subclass 84.

  The inventions are distinct, each from the other because of the following reasons:
- Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a colorant for an injection molding polymer and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

## Election of Species

IA

5. Should applicant elect to proceed with the invention of group I, this application contains claims directed to the following patentably distinct species of the claimed invention: the composition with or without the transparent resin.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

IB

6. Should applicant elect to proceed with the invention of group I and elect the species of the composition without the transparent resin, this application contains claims directed to the following patentably distinct species of the claimed invention: the inorganic particles with or without the surface modifier layer.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

## Election

7. A telephone call was made to Arthur Crawford on 29 June 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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## Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached on 6:30 AM - 5:00 PM Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK AU 1712

ROBERT E.L. SELLERS
PRIMARY EXAMINER